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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,225	06/02/2006	Reynaldo Stamatis Filho	STAMATIS FILHO ET AL.-1 P	1350
25889	7590	10/14/2009	EXAMINER	
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			KUMAR, RAKESH	
			ART UNIT	PAPER NUMBER
			3651	
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			10/14/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/581,225	STAMATIS FILHO ET AL.	
	Examiner	Art Unit	
	RAKESH KUMAR	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 and 13 is/are allowed.
- 6) ☒ Claim(s) 14-17, 19, 20 and 22 is/are rejected.
- 7) ☐ Claim(s) 18 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Final Rejection

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-17,19,20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (US 5,702,029) in view of Graffenberger (US 1,666,008).

Referring to claims 14,15. Yang discloses a semi-automatic dispenser for disposable cups (Figure 2), comprising:

a box having a parallelepipedal shape and a height smaller than a width (see members 132,130,131,133; Figure 2), with an upper wall (130) having a central opening and a fitting and fastening neck (132) on a top surface and a semi-circular neck on a lower surface (156), which corresponds to an axial passage for the cups to be dispensed;

fastening means disposed on a rear of the box (see Figure 2);
a tubular shelf (140) having a top lid 141), said shelf forming a compartment for several disposable cups arranged upside down in form of a stack, said shelf being connected to the-fitting and fastening neck (132);

a rectangular lid (131) for closing a bottom section of the box, said lid having a round central opening (see opening), with one side of said opening being axially aligned with the central opening of the box, said rectangular lid (131) having a neck that forms a passage or exit for the cups to be dispensed (passage through 131);

a slidable diaphragm (153) disposed in an inner section of the box, said diaphragm being formed by a plate having a blind section (section close to member 154) on one side and with an opening having a diameter corresponding to the openings in the box and bottom plate, and with a diameter of a mouth of a cup to be dispensed (see opening in member 153), wherein the blind section is adapted to be movable so that it overlaps or is outside the openings in the box and bottom plate, wherein in an overlapping position, the blind section closes the bottom plate and supports the stack of cups to be dispensed (see movement of member 153), and wherein the hole in the diaphragm is movable so that it overlaps or is outside the openings in the box and bottom plate, such that in an overlapping position of the holes with the holes in axial alignment with each other, a cup to be dispensed passes through an interior of the receiving drawer (see Figure 4);

a horseshoe-shaped part (150; Figure 2) fitted over the diaphragm (153) and following a contour of the opening in the diaphragm opposite the semi-circular neck, so that the horseshoe-shaped part (150) and the semi-circular opening combine to form a round passage section for the cup to be dispensed, wherein the horseshoe-shaped (153) part has cooperative internal means (152) that separate a first bottom cup while

retaining the other cups when the diaphragm (on member 153) is moved to align the openings in the box, bottom plate (131) and diaphragm (153).

Yang does not specifically disclose a receiving shelf being connected at an upper edge to the neck on the bottom plate.

Graffenberger discloses a cup dispenser wherein a receiving shelf (3) being connected at an upper edge to the neck on the bottom plate (see 1a and 2);

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Yang to have included a receiving shelf being connected at an upper edge to the neck on the bottom plate as taught by Graffenberger because it would help guide the dislodged articles down and away from the opening aperture thus being easily grasped by a user.

Referring to claim 16. Yang discloses a semi-automatic dispenser for disposable cups (Figure 2), comprising:

wherein the diaphragm (153) has a front extension forming a handle (154) which extends through a longitudinal slot (slot between member 130 and 131) in the front wall of the box, so that moving the handle moves the diaphragm along the slider.

Referring to claims 17,19,20 and 22. Yang in view of Graffenberger discloses a being disposed one on each side of the diaphragm, wherein pins in the plate are connected to first ends of the springs and pins in an inner section of the lid connected to other ends of the springs (see Figure 1 and 2; Graffenberger).

Allowable Subject Matter

Claims 12 and 13 are allowed.

Claims 18,21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAKESH KUMAR whose telephone number is (571) 272-8314. The examiner can normally be reached on M-F 8 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/
Supervisory Patent Examiner, Art
Unit 3651

/RAKESH KUMAR/
Examiner, Art Unit 3651